

Remarks by the High Representative, Paddy Ashdown, at the Press Conference on Law on Pardon

I have called this press conference this morning to highlight – what I think most of you have clearly understood and I pay tribute to you all, those who have been involved in this – an abuse of power that far too many politicians in this country have used to help their political allies and friends. An abuse, if you like, of the legal system.

This issue of Presidential Pardons has played predominantly in the media over the last few weeks, and I am grateful and admiring of the role that the media has played to expose this – I'll come on to that in a moment. It is the issue that lies at the core of the controversy surrounding the decision by the Federation President Niko Lozancic to grant a Pardon to his former party colleague Miroslav Prce.

Now let me give you a little background for those who can't remember it. We had to act in the case of Jusufović, that Pardon which occurred some months ago and I, at that stage, just before that, suspended the right to pardon at the state level until the new law comes into operation. I don't like intervening in the judicial processes of this country and in suspending that law I hope I sent a very clear message that the abuse of this legal process, by presidents in this case, at the state, had to cease. I very much hoped that the Entity Presidents would get the message. It is clear that they did not.

The Prce Pardon represents, it is clear to me, a further gross abuse of a legal process. The unhappy fact that has come to

light as a result of this is that this is not an isolated abuse of legal process. The Prce affair is only one amongst a very widespread number of instances which amounts to the practice of abuse which itself becomes a conspiracy amongst leading politicians, I have to say of all ethnicities against the decisions of the judicial structures of BiH and too often in favour of their corrupt friends and contacts.

The facts of the Prce case are, thanks, in large measure, to the press, now very well known. President Lozancic pardoned an HDZ colleague, an HDZ friend, against the very firm advice of a judge. After there had been a process subject to the law, legal process of plea bargaining, against the advice of the judge, against the advice of the Justice Minister, on the flimsiest of possible reasons which were themselves unsupported by any confirmed evidence and had it not been for the vigilantes of a number of people, including in the press, all of this process would have remained completely in secret, out of view of the public, not even published in the official gazette. So the facts are well known.

But the issue here is not first and foremost the Prce Pardon. It is the system that permits such events to happen.

It is about whether or not politicians in this country are above or are prepared to subvert the judicial process.

Unhappily I have to say to you that this event has lifted the lid on this whole process and we have seen an absolute scandal beneath that.

The Prce case is only one example of how the present Pardon system is open to political abuse.

Let me remind you, a Presidential Pardon, in this case only the Entity Presidents have the power to pardon since I suspended the right of the State President to pardon, a Presidential Pardon should only be granted in extremely limited and extraordinary circumstances. It is a tool of last

resort – for example when there is substantial evidence to believe that there has been a misconduct of justice or when there are very powerful, compassionate reasons – like for instance, a terminal illness, which would be sufficient to justify that.

But in BiH it is now absolutely clear that these pardons are handed out with such frequency as to make a mockery of the law, to make a mockery of the system and to undermine public trust in judicial decisions in this country.

Let me give you some figures. During the first eight months of this year one in three applications for Pardon in the Federation were granted. In the RS the figure was slightly better, slightly better, one in five applications. It is perfectly clear that it is easier for a criminal to get a Pardon from their friends in BiH than it is for an ordinary citizens to pass the driving test. BiH citizens indeed often have to produce more documentation in order to receive an ID card than criminals have to produce in order to get a Pardon from their political friends.

Consider these figures. In the US –population almost 300 million, with 50 governors and a president able to give pardons – in the 20 years from 1980 to the year 2000, an average of 43 pardons were given a year. In BiH, with a population of 3.5 million, with three presidents and the Mayor of Brcko District able to give pardons – but let me remind you I suspended the State Presidents ability to give pardons – so in fact only two Entity Presidents are now able to give pardons. In BiH, 3.5 million population, with two presidents at the Entity level able now to give pardons, 142 pardons have been given by the Entity Presidents alone, in the first eight months of this year.

That is an average of 71 pardons per President in 8 months, or if you like, more than – well over – one pardon per President per week.

This is not an ethnic issue, let me tell you it is not an ethnic issue. It is an inter – ethnic conspiracy against justice. Vice Presidents, whose approval has to be given, Vice Presidents of different ethnicity happily give their agreements to the current President in return for their friends getting pardons when requested.

And all of this, let me remind you, in secret and hidden from the public gaze.

Because according to the current legislation, Entity Presidents can grant Pardons secretly, without any explanation to Parliament, without any knowledge to the public or without even the requirement to publish these in the official gazette. So, Pardons have been granted I have to tell you in looking into these, regardless of whether a petitioner has lied to the State, or regardless whether that petitioner seeking a Pardon has any outstanding debts to public budgets.

This is a scandal and you have recognised it as such and I have to say the wider public in BiH has recognised it as such. Maybe we should have seen it earlier. All of us. And we bear a responsibility for that. But now that it has been exposed I cannot do other than act.

So, I did institute, some months ago after the Jusufovic affair, a law which will amend this. Working parties have now come together and have agreed a law that will provide a framework for pardons which politicians will find much more difficult to abuse. That law will require full publication of decisions, it will require this whole process to be conducted in the public gaze, it will give a period between a President deciding to pardon and that Pardon coming into effect when the public can express its views. It will give right to the judiciary to have their views heard and taken into account, it would require a President giving a Pardon against the advice of judge to explain in public why he or she is overruling the judges opinion and it will provide for many other safeguards.

This law, currently to go before Parliament, could if Parliament wishes be in operation by October. So the decision that I have taken today is to suspend now all powers of any level – Entity President, State level has already been suspended, the Mayor of Brcko – to grant Pardons for those convicted of criminal offenses until this new law regulating Pardons is enacted and in place.

As I said, the law has been drafted. It is a good law. I look to Parliament, and I send this message to Members of Parliament and Deputies, I look to you to ensure the passage of this law and to ensure that you preserve its essential features, without delay. This is a test for Parliament and I shall be watching carefully for any attempt to undermine this law in order to revert to a law which permits the kind of scandalous abuse of a legal procedure which the Prce Pardon has revealed.

One of the good things, and there are very few good things, about this whole Prce affair, one of the good things however is that the civil voice of BiH has begun to be heard on this matter. And ladies and gentleman this is very important, when you don't have a High Representative, and maybe that's not long away, you will not have an international community ready to protect the institutions of a fair legal system. We will then require the civil voice to be the protector of that mechanism. And one of the good things that has happened during the Prce affair is that that voice has begun to be heard. I left a certain space between learning about this and the action that I would take in the hope that that voice would emerge – and it has. And I want to pay tribute to the newspapers and other bodies for their part in this.

I want to call on you in the press now to be just as vigilant in watching over the passage of the new pardon law through Parliament and to blow the whistle if Parliament allows any watering down of the provisions and safeguards in the new law which will allow the kind of abuse of legal process that we

have seen in the Price case to continue.